

Chapter 6

PROVISIONS OF THE RAILROAD UNEMPLOYMENT INSURANCE ACT

BENEFIT PROVISIONS

The Railroad Unemployment Insurance Act provides benefits for qualified railroad employees. The Act is designed to restore part of their wage loss arising from unemployment or sickness (including maternity). Payments are made for days of unemployment or sickness in a benefit year, which generally begins on July 1, to employees who had sufficient earnings in the preceding calendar year (called the base year) to meet the qualifying conditions.

This chapter reflects October 1996 legislation which increased the railroad unemployment and sickness insurance daily benefit rate, revised the formula for indexing future benefit rates, and reduced initial benefit waiting periods. The legislation also applied an earnings test to some unemployment claims and reduced the maximum extended benefit period for long-service employees.

Qualifications

Qualified employee.—A “qualified employee” is one who earns qualifying creditable compensation in a base year counting no more than a certain amount in any month. In addition, a new employee must have some employment in at least five months of the first year worked in the railroad industry in order to draw benefits in the following benefit year.

General eligibility requirements.—To be eligible for unemployment benefits, a qualified employee must be able to work and be available for work. A “day of unemployment” is a day on which he or she meets these conditions and does not receive any pay, is not disqualified, and has properly registered for unemployment benefits. Any calendar day on which the employee does not work solely because of mileage-limitation or work-restriction agreements or solely because he or she is between regularly assigned trips or tours of duty or because a turn in pool service was missed is not considered a day of unemployment.

To be eligible for sickness benefits, a qualified employee must be unable to work because of illness or injury. A “day of sickness” is a day on which the employee meets these conditions and for which he or she does not receive any pay and has filed a “statement of sickness” providing evidence of the employee’s medical condition signed by the employee’s doctor (or other authorized individual).

Benefits

Daily benefit rate.—The legislation effective October 9, 1996, increased the maximum daily benefit rate from \$36 to \$42 in benefit year 1996-97 (July 1996 - June 1997); for biweekly claims, maximum benefits can total \$420. The maximum daily benefit rate further increases to \$43 in July 1997, to \$44 in July 1998, and may increase at the beginning of each future benefit year depending on the growth in average national wages.

Sickness benefits payable for the first six months after the employee last worked are subject to tier I railroad retirement payroll taxes, unless benefits are being paid for an on-the-job injury.

Registration and waiting period.—Benefits are normally paid for the number of days of unemployment or sickness over four in 14-day registration periods. Initial sickness claims must also begin with four consecutive days of sickness. However, during the first 14-day claim period in a benefit year, benefits are only payable for each day of unemployment or sickness in excess of seven which, in effect, provides a one-week waiting period. But, only one seven-day waiting

period is required during any period of continuing unemployment or sickness, even if that period continues into a subsequent benefit year.

Strike benefits.—If someone is unemployed because of a strike not in violation of the Railway Labor Act, benefits are not payable for days of unemployment during the first 14 days of the strike, but benefits are payable during subsequent 14-day periods. If a strike is in violation of the Railway Labor Act, no unemployment benefits are payable to employees participating in the strike; however, employees not among those participating in such an illegal strike, but who are unemployed on account of the strike, may receive benefits after the first two weeks of the strike.

While a benefit year waiting period cannot count toward a strike waiting period, the 14-day strike waiting period may count as the benefit year waiting period if the employee subsequently becomes unemployed for reasons other than a strike later in the benefit year.

Normal benefits.--Normal benefits are paid for up to 130 days (26 weeks) in a benefit year. Benefit rights are exhausted when a benefit year ends (normally June 30) or earlier if benefit payments equal base year creditable earnings. For purposes of determining maximum normal benefits payable in benefit year 1996-97, monthly earnings of up to \$1,098 in base year 1995 are counted. In benefit year 1997-98, monthly earnings of up to \$1,117 in base year 1996 will be counted. In benefit year 1998-99, monthly earnings up to \$1,150 in base year 1997 will be counted.

Extended benefits.--If an employee has at least 10 years of service and exhausts normal unemployment or sickness benefits, he or she may be eligible for 13 consecutive weeks (65 compensable days) of extended benefits. In addition, an employee who is not qualified for normal benefits in the current benefit year, but received normal benefits in the previous year, may still be eligible for extended benefits.

In order to qualify for extended unemployment benefits, the employee must not have voluntarily quit work without good cause and not have voluntarily retired. To qualify for extended sickness benefits, a beneficiary must not have voluntarily retired and must be under age 65.

Accelerated benefits.—Employees with 10 or more years of service whose earnings do not qualify them for unemployment or sickness benefits in the current benefit year, but will qualify them in the next benefit year, may be able to receive normal unemployment or sickness benefits before the regular beginning date of the next benefit year. To be eligible, they must have 14 or more consecutive days of unemployment or sickness and not have voluntarily retired, or quit work without good cause if claiming unemployment benefits, and be under age 65 when claiming sickness benefits.

Maternity benefits.—Maternity benefits are not payable as such. However, a qualified employee may receive sickness benefits if she is unable to work or if working would be injurious to her health because of pregnancy, miscarriage, or childbirth. Such benefits are paid in the same amounts as any other sickness benefits.

Effects of Work and Earnings

A claimant may not receive benefits for any day for which pay is received. This includes railroad and nonrailroad wages, salary, pay for time lost, pay while sick, dismissal allowances, most wage guaranty payments, vacation pay, holiday pay, or remuneration other than subsidiary remuneration. However, payments received under a non-governmental supplemental unemployment or sickness plan, an employee's own health or accident insurance policy or a group insurance policy will not affect entitlement to benefits and should not be reported on claims.

An earnings test is also applied to unemployment claim periods. If a claimant's earnings for days worked, and/or days of vacation, paid leave, or other pay, in a 14-day registration period are more than a certain indexed amount, no benefits are payable for *any* days of unemployment in that period. For the benefit year that began July 1996, the earnings test is \$850; for the benefit year that begins July 1997, the test will be \$865; and for the benefit year that begins July 1998, the test will be \$890. These amounts correspond to the base year monthly compensation amounts used in determining eligibility for benefits in each year.

On the other hand, earnings averaging not more than \$15 a day from work which is substantially less than full-time and not inconsistent with the holding of normal full-time employment may be considered subsidiary remuneration and may not prevent payment of any days in a claim. However, a claimant must be sure to report all full and part-time work on each claim, regardless of the amount of earnings, so the Board can determine whether the work affects benefits.

Disqualifications

A claimant for unemployment benefits may be disqualified for 30 days if he or she refuses to accept suitable work or fails to follow instructions to apply for work or to report to a Board office for an interview.

A claimant who leaves either railroad or nonrailroad work voluntarily without good cause is disqualified, starting with the day he or she leaves work, until he or she has returned to railroad employment and earned wages sufficient to qualify for benefits again. This disqualification also applies to a claimant who leaves work voluntarily with good cause, but only with respect to periods in which he or she could receive unemployment benefits under another law.

A claimant is also disqualified for any day on which he or she takes part in a strike begun in violation of the Railway Labor Act or in violation of the established rules and practices of a labor organization of which he or she is a member. The disqualification does not apply to a claimant who does not work on the premises where the strike occurs, and it does not apply to a claimant who does not do the same kind of work as the employees participating or directly involved in the strike.

An employee who is paid a separation allowance is disqualified for both unemployment and sickness benefits for roughly the period of time it would have taken to earn the amount of the allowance.

A claimant may be disqualified for sickness benefits if he or she fails to take a medical examination when required by the Board.

If a claimant makes a false or fraudulent statement or claim in order to get unemployment or sickness benefits, he or she will be disqualified for 75 days and may also be subject to a fine or imprison-

ment. The Board conducts checks with State and Federal agencies as well as railroads in order to detect fraudulent benefit claims, and it also conducts checks with physicians to verify the accuracy of medical statements supporting sickness benefit claims.

Payments Under Other Laws or Systems

If an employee receives a retirement, disability or survivor benefit under the Railroad Retirement Act, Social Security Act, or any other social insurance law for days for which he or she is also entitled to benefits under the Railroad Unemployment Insurance Act, unemployment or sickness benefits are payable only to the extent to which they exceed the other payments for those days. Examples of other such social insurance payments are military pensions, firefighters' and police pensions, or worker's compensation payments. Claimants should report all such other payments promptly to avoid having to refund benefits later.

There is no reduction in unemployment or sickness benefits for benefits paid under a nongovernmental sickness insurance plan, such as a supplemental sickness plan established by a railroad. Similarly, there is no reduction in benefits if an employee receives supplemental unemployment benefits under a nongovernmental unemployment benefit plan. But unemployment and sickness benefits provided under the Railroad Unemployment Insurance Act are not payable if Federal/State unemployment or sickness benefits under other laws, including Canadian law, are paid for the same period of time.

If an employee is awarded damages or receives a settlement because of an injury, any sickness benefits already paid for the same injury will have to be deducted from the settlement and refunded to the Board. Any benefits due for the same injury for later periods may be withheld. The amount recoverable or withheld in such cases cannot, however, exceed the net amount of the damages or settlement after medical and legal expenses have been deducted.

Unemployment benefits are normally not paid if an employee is fully protected by a wage guaranty plan. If an employee receives unemployment or sickness benefits, however, and is later paid a guaranty or other pay for time lost for the same period, the employer will

be asked to withhold an amount equal to the unemployment or sickness benefits. The employer must then pay this amount to the Board.

PAYMENT PROCESS

Claiming Unemployment Benefits

In order to receive unemployment benefits, a claimant must obtain an application from his or her employer, labor organization or local Railroad Retirement Board office or the Board's Web Site (<http://www.rrb.gov>). The completed application should be mailed to the local Board office as soon as possible and, in any case, must be filed within 30 days of the date on which the person became unemployed or the first day for which the person wishes to claim benefits. Benefits may be lost if the application is filed late.

The local Board office reviews the completed application and notifies the railroad employer who has the right to provide information about the benefit application. Fourteen-day claim forms are then mailed to the claimant as long as he or she remains unemployed and eligible for benefits.

Only one application need be filed during a benefit year even if the claimant becomes unemployed more than once. In that case, the claimant must promptly request a new claim form from a local Board office within 30 days of becoming unemployed.

Placement service.--The Railroad Unemployment Insurance Act authorizes the Board to operate a free placement service. The primary purpose of the placement service is to secure new employment for experienced railroad workers who have lost their jobs.

When a claimant applies for unemployment benefits, he or she also applies for employment service. The claimant will probably be interviewed by a Board representative who will try to help secure employment if he or she does not have good prospects of returning to his or her former job. The claimant may be referred by the representative to a suitable railroad job; otherwise, an effort will be made towards placement in a nonrailroad job for which the claimant appears qualified.

As part of its placement service, the Board maintains a list of job openings reported by railroads to its field offices. The list is available for review at all offices of the Board.

Claiming Sickness Benefits

An application for sickness benefits can be obtained from railroad employers, railroad labor organizations, any Board office or the Board's Web Site. An application and a doctor's statement of sickness are required at the beginning of each period of continuing sickness for which benefits are claimed. The Board suggests that employees keep an application form on hand for use in claiming sickness benefits. If the employee is too sick to complete the application, someone else may do so. In that case, a family member should also complete form SI-10, "Statement of Authority to Act for Employee," and include it with the application. Attached to each application is a statement of sickness which must be completed by the employee's doctor.

The forms should be completed and mailed to the Board in Chicago by the seventh day of illness or injury. After the Board receives the application and statement of sickness and determines eligibility, 14-day claim forms are mailed to the claimant for completion and return to a Board field office for processing. Benefits may be lost if an application or claim is filed late.

Payments

In most cases, the first benefit payment for unemployment or sickness will be received in about three weeks from the date the claimant became unemployed or sick.

Claimants who file an application for benefits may expect to receive a claim form, or a decision, within 15 days of the date a Board office receives the application. When filing biweekly claims, claimants may expect to receive a payment, or a decision, within 15 days of the date a Board office receives the claim form.

However, some claims for benefits may take longer to handle than others if they are more complex, or if a Board office has to get information from other people or organizations. If this happens, the

claimant may expect an explanation and an estimate of the time required to make a decision.

The normal method of payment for railroad unemployment and sickness benefits is by Direct Deposit. With Direct Deposit, payments are issued directly to a claimant's bank, savings and loan, credit union or other financial institution. Applicants for unemployment and sickness benefits are asked to provide information needed for Direct Deposit enrollment. Benefits will be paid by check only if an applicant does not have a checking or savings account.

Claimants can conveniently check out the status of their claims or payments at any time by calling the toll-free RRB Help Line at 1-800-808-0772. The Help Line is an automated telephone service providing information on unemployment and sickness insurance 24 hours a day, 7 days a week.

APPEALS

Employees

If a claimant disagrees with a decision made on a claim, he or she has 60 days from the date of the initial notice of the decision in which to file a written statement requesting reconsideration from the Board office that made the decision. This step is mandatory before a decision may be appealed to the Board's Bureau of Hearings and Appeals. Failure to request reconsideration within 60 days will result in forfeiture of further appeal rights.

If the case involves a benefit overpayment of more than 10 times the daily benefit rate, the claimant also has 60 days from the initial notice of overpayment to request a waiver of repayment. However, a request for waiver filed within 30 days will, in certain cases, defer recovery of the overpayment from subsequent benefit payments. If waiver is requested, the claimant may be asked to complete a financial statement on a form provided by the Board.

If dissatisfied with the reconsideration or waiver decision of a Board office, a claimant may, within 60 days, appeal to the Board's Bureau of Hearings and Appeals.

If not satisfied with the Bureau of Hearings and Appeals' decision, a claimant may further appeal, within 60 days, to the three-member Board.

If not satisfied with the three-member Board's decision, a claimant may file a petition for a review of the decision by a U.S. Court of Appeals. A petition for review must be filed within 90 days of the notice of the Board's decision.

Employers

Employers have the right to appeal claims of their employees, but such appeals do not prevent timely payment of benefits. However, employees may be required to repay benefits if their employers' appeals are successful.

INCOME TAXES

Unemployment benefits paid by the Board are subject to Federal income taxes, just like unemployment benefits paid under the State government programs.

Sickness benefits paid by the Railroad Retirement Board, except for sickness benefits resulting from on-the-job injuries, are subject to Federal income tax under the same limitations and conditions that apply to the taxation of sick pay received by workers in other industries.

The Board withholds Federal income tax from unemployment and sickness benefits only if requested to do so by the beneficiary.

The Railroad Unemployment Insurance Act specifically provides that railroad unemployment and sickness benefits are not subject to State income taxes.

Each year, the Board sends railroad employees separate tax information statements showing the total amount of unemployment and sickness benefits paid during the previous year. These forms are for use in preparing Federal income tax returns. The Board reports these amounts to the Internal Revenue Service. Railroad employees with

questions regarding potential tax liability should contact the Internal Revenue Service for advice or assistance.

NEED FOR KEEPING CLAIMANTS INFORMED

The Board conducts information programs to keep railroad employees informed of their benefit rights and responsibilities under the Railroad Unemployment Insurance Act, with emphasis on the necessity of prompt application for benefits. Yet cases still occur in which qualified railroad employees forfeit benefits either because they do not know that these benefits are available or because they are unaware of the steps they themselves must take to claim them. While the Board may permit retroactive registration beyond the normal period when it can be shown that the employee was not at fault and that failure to apply for benefits was due to circumstances beyond the employee's control, it cannot approve delayed claims if the only reason for a delay in filing was lack of knowledge of the law.